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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

U.G.,

Petitioner,

v.

THE SUPERIOR COURT OF CONTRA  
COSTA COUNTY,

Respondent;

CONTRA COSTA COUNTY CHILDREN  
& FAMILY SERVICES BUREAU,

Real Party in Interest.

A149152

(Contra Costa County  
Super. Ct. No. J15-00743)

Petitioner U.G.—mother of an infant, A.G., born in July 2015—challenges the juvenile court’s August 3, 2016 order terminating reunification services and setting a hearing, pursuant to Welfare and Institutions Code section 366.26, for November 28, 2016.<sup>1</sup> Mother contends that there is a lack of substantial evidence to support the juvenile court’s finding that she was provided with or offered adequate reunification services. For the reasons given in this abbreviated opinion,<sup>2</sup> we deny the petition.

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<sup>1</sup> Unless otherwise noted all statutory references are to the Welfare and Institutions Code.

<sup>2</sup> Because this petition only raises factual issues governed by the substantial evidence standard, we resolve this matter pursuant to California Rules of Court, Standard 8.1.

## **FACTUAL AND PROCEDURAL BACKGROUND**

On July 8, 2015 the Contra Costa County Children and Family Services Bureau filed an original juvenile dependency petition, pursuant to section 300, alleging that Mother suffers from cognitive delays, possibly as a result of fetal alcohol syndrome,<sup>3</sup> and that her behavior suggests she was not capable of caring for a newborn. For example, several times she forgot to feed the baby; once, when instructed to go to the neo-natal intensive care unit to breast feed her, she delayed, and the nursing staff had to bottle feed the child. She was not taking medical advice to ensure the child's safety and was agitated when the medical staff gave her directions. Moreover, she exhibited "anxious, impulsive, and unexplained behaviors," such as eating napkins and paper towels and urinating in a bedside cup, rather than using an available bathroom.

Initially, the infant was detained in Marin County; however, when it was determined that Mother lived in Pittsburg, California, the matter was transferred to Contra Costa County. At the July 9, 2015 detention hearing, the juvenile court appointed a guardian ad litem for Mother and on August 26, 2015 sustained a single allegation against her: that she is "unable to care for her infant daughter due to [her] cognitive delays."

In its disposition report, adopted by the court, the Bureau recommended that Mother be offered family reunification services. The case plan required Mother, among other things, to complete a psychological evaluation arranged through the County or other mental health provider approved by the social worker and to complete a parenting education class approved by the social worker.

The disposition report indicated that on August 18, 2015, the Bureau submitted an application on Mother's behalf for services at the Regional Center of the East Bay.

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<sup>3</sup> Fetal alcohol syndrome is the most severe form of the fetal alcohol spectrum disorders. These are a group of conditions occurring in people whose mothers drank alcohol while pregnant. The spectrum of problems includes "abnormal appearance, short height, low body weight, small head size, poor coordination, low intelligence, behavioral problems, and problems with hearing or seeing." (<[https://en.wikipedia.org/wiki/Fetal\\_alcohol\\_spectrum\\_disorder](https://en.wikipedia.org/wiki/Fetal_alcohol_spectrum_disorder)>, as of October 4, 2016.)

However, on September 20, 2015, the Regional Center denied the application because it does not provide services to individuals suffering from fetal alcohol syndrome.

The Bureau discussed offering one-on-one parental coaching for Mother with an outside agency, Through the Looking Glass.<sup>4</sup> The social worker reported that she worked “closely” with the Through the Looking Glass director to obtain services for someone with both a psychological and intellectual disability. In discussing her efforts to obtain services for Mother via Through the Looking Glass, the social worker emphasized that it was “imperative” that a complete and accurate assessment be conducted to assess Mother’s mental, emotional, and intellectual capacity. Despite the Bureau’s specially contracting with Through the Looking Glass to provide those services to Mother, she refused them on October 20, 2015, April 29, 2016, and May 5, 2016—i.e, for more than six months. The social worker requested Looking Glass staff to contact Mother, hoping they would be more successful in engaging Mother, but still Mother refused services.<sup>5</sup>

The Bureau provided Mother with three options for therapy and Mother began therapy on November 5, 2016 and attended four to five sessions. Mother ended the visits, possibly due to a misunderstanding she had, misconstruing the expiration date on her therapeutic referral as an end date for the therapy. Twice the Bureau tried unsuccessfully to correct Mother’s misunderstanding. Despite the Bureau’s efforts, Mother repeatedly insisted that she had completed the requirement that she attend therapy. The therapist who had worked with Mother briefly, did not have an adequate opportunity to make a diagnosis. That therapist, however, also encouraged Mother to undergo a psychological

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<sup>4</sup> Through the Looking Glass is a nonprofit organization skilled in working with individuals with fetal alcohol syndrome and developmental delays.

<sup>5</sup> The Bureau continued to call Through the Looking Glass almost on a weekly basis to arrange services. On June 8, 2016, Through the Looking Glass staff notified the Bureau that Mother called back seeking services. At that time Through the Looking Glass did not have an available clinician to conduct the necessary evaluation. Mother, however, ultimately began receiving services at Through the Looking Glass on July 27, 2016.

evaluation, but Mother refused. In addition, the Bureau provided Mother with “a really long list of [additional mental health] options,” in an attempt to meet her needs.

In addition to these direct attempts to have Mother evaluated and to provide her with therapy, the Bureau searched medical records and discovered one record of an October 9, 2015 mental health contact.

In advance of what turned into a combined six- and twelve-month review, the Bureau recommended that Mother’s services be terminated and that a section 366.26 hearing be set. A contested hearing was held on August 3, 2016. The social worker testified that she had not referred Mother for a psychological evaluation. On redirect examination the worker attributed this failure partly to the fact that she had been encouraging Mother to return to therapeutic services, such as counseling, and Mother insisted that she was “done.” Attempting to motivate Mother to return to therapy, the worker discussed Mother’s case plan with her, emphasizing that if she returned to therapy she would be able to spend more time with her child.

The juvenile court found that although Mother was not given a list of specific psychiatric evaluators, she was given referrals to other mental health services, including Through the Looking Glass, an organization geared to work with the types of challenges Mother faced; nonetheless, Mother “steadfastly refused to participate in a psychiatric evaluation or work with [Through the] Looking Glass.” The court also found that the Bureau repeatedly worked with Mother to address the issues that would have made reunification successful. The juvenile court recognized that 12 months had elapsed and there was no basis to find a substantial probability of returning the child to Mother if it extended serves to 18 months. It also concluded that doing so would not be in the child’s best interests, given that the child had not been in her mother’s care since she was a newborn. Thus, the juvenile court set the section 366.26 hearing.

On August 5, 2016, Mother filed a Notice of Intent to File Writ Petition. Mother filed her petition on September 6, 2016 and the Bureau filed its opposition on September 28. Because the parties did not request oral argument, oral argument was waived.

## DISCUSSION

### I. SUBSTANTIAL EVIDENCE SUPPORTS THE FINDING THAT THE BUREAU OFFERED OR PROVIDED MOTHER ADEQUATE SERVICES.

We review Mother's claim that she was not provided with adequate services under a substantial evidence standard. (*In re Alvin R.* (2003) 108 Cal.App.4th 962, 971.) Because the juvenile court's determination that reasonable services were provided must be supported by clear and convincing evidence, under a substantial evidence review the evidence must be sufficiently strong that it leaves no substantial doubt concerning the juvenile court's conclusion. (*Ibid.*) The services offered need not be perfect, but must be designed to deal with the needs of the individual family. (*Id.* at p. 972.) The services offered are reasonable if the Bureau "identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained *reasonable* contact with the parents during the course of the service plan, and made *reasonable* efforts to assist the parents in areas where compliance provided difficult." (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414 [emphasis in original].)

Mother contends that the services she was offered were inadequate because they did not include a specific referral for a psychological evaluation. Although the social worker testified that she had not specifically given Mother a referral for a psychological evaluation, the criticism based on this failure is hypertechnical and unfounded. It is undisputed that the Bureau made repeated efforts to have Mother evaluated. It attempted to arrange for services through the Regional Center; when it realized that referral was not successful, it arranged for services, including an evaluation, through Through the Looking Glass. When Mother repeatedly declined services, the Bureau enlisted Through the Looking Glass' expertise to convince Mother to accept services there. In addition, Mother's therapist attempted to convince Mother to undergo an evaluation. As the juvenile court acknowledged, although it "might have been ideal to physically hand [Mother] a list" of possible referrals, it is unlikely that it would have made any difference, given the Bureau's extensive efforts to convince Mother to accept services—including on-going psychological counseling and an evaluation. The Bureau recognized

the need for a psychological evaluation, explored how to best obtain that service, repeatedly encouraged Mother to avail herself of that service, and, when Mother resisted, engaged the available expertise to overcome that resistance.<sup>6</sup> Thus, the Bureau's efforts were reasonable.

A parent's participation in reunification services is voluntary; the Bureau cannot compel an unwilling parent to participate in such services. (*In re Christina L.* (1992) 3 Cal.App.4th 404, 414.) Even a parent who suffers from a developmental disability and lacks judgment and insight is not excused from the statutory requirement of participating in a reunification plan. (*Id.* at p. 415.) An agency is not required to "take the parent by the hand and escort him or her to . . . counseling sessions." (*Id.* at p. 414.) Neither is it required to do more than it did in this case to convince a parent to undergo a psychological evaluation. Mother cannot repackage her resistance to counseling and psychological evaluation as the Bureau's deficiency.

Mother relies on two cases to support her claim that the Bureau provided her with inadequate services: *Patricia W. v. Superior Court* (2016) 244 Cal.App.4th 397 and *In re K.C.* (2012) 212 Cal.App.4th 323. Both are inapposite. In *Patricia W.*, services were deemed to be inadequate because the agency never sought to diagnose the mother's mental illness or plan how to manage her medication to avoid a relapse. (*Patricia W.*, *supra*, 244 Cal.App.4th at p. 425.) In *K.C.* the parent made three separate visits to a clinic to be evaluated psychologically. (*In re K.C.*, *supra*, 212 Cal.App.4th at p. 327.) Thus, these cases are factually distinguishable from Mother's case, where the Bureau recognized that obtaining a psychological evaluation was "imperative," made sustained efforts to arrange for an evaluation, attempted to overcome Mother's resistance to accepting services, and where Mother made no timely efforts to obtain the required evaluation.

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<sup>6</sup> In fact, the Bureau's efforts were ultimately successful; unfortunately, due to a combination Mother's resistance and the limited resources available, there was a substantial delay and Mother did not begin to receive services until just days before the August 3 hearing.

### **DISPOSITION**

For the reasons given above, the petition for an extraordinary writ is denied. Our decision is immediately final as to this court. (Cal. Rules of Court, rules 8.452(i), 8.490(b)(2)(A).)

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McGuiness, P.J.

We concur:

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Pollak, J.

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Siggins, J.

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